



Resolution No. R2022-23

Kent Des Moines TOD surplus declaration, suitability for housing, and offering strategy

Meeting:	Date:	Type of action:	Staff contact:
Executive Committee Board	08/04/2022 08/25/2022	Recommend to Board Final action	Don Billen, PEPD Executive Director Mara D'Angelo, Manager, Transit-Oriented Development Tim Bates, Senior Project Manager

Proposed action

(1) Approves the chief executive officer's declaration that fifteen parcels, as part of the Kent Des Moines Transit Oriented Development Sites, are surplus upon completion of Federal Way Link Extension construction; (2) declares the TOD Sites as suitable for development as housing; (3) authorizes staff to offer the TOD Sites first to qualified entities to create mixed-use, mixed-income project outcomes that prioritize and maximize affordable housing; (4) authorizes staff to offer property within the TOD Sites at below market value to facilitate affordable housing outcomes.

Key features summary

- This set of four proposed actions advances transit-oriented development (TOD) on the North and South TOD Sites (TOD Sites) adjacent to the Kent Des Moines Link Light Rail Station.
- This action:
 - Approves the chief executive officer's (CEO's) declaration that fifteen parcels, as part of the TOD Sites, are surplus and will no longer be needed for a transit purpose after construction of Federal Way Link Extension is complete;
 - Declares the TOD Sites as suitable for development as housing;
 - Authorizes staff to offer the TOD Sites first to qualified entities (local governments, housing authorities, and nonprofit developers) for development of affordable housing as defined in RCW 81.112.350. It is anticipated that qualified entities may need to partner with for-profit developers to achieve the mixed-use, mixed-income goals for the TOD Sites; and
 - Authorizes staff to offer property within the TOD Sites at a discounted land value, including at no cost, to facilitate the affordable housing outcomes of the project.
- The real properties identified in this requested action are depicted in Exhibit A.

Background

Property

Sound Transit acquired the property comprising the TOD Sites to support the construction of the Federal Way Link Extension (FWLE). The TOD Sites are adjacent to the future Kent Des Moines station in the City of Kent and are each comprised of multiple tax parcels. Portions of each parcel will have a permanent transit footprint for the station, guideway, and new street rights-of-way. The remaining

portions are being used as construction staging and will no longer be needed for a transit use after construction is complete. Exhibit A illustrates the portions of each parcel that comprise the TOD sites.

The parcels were acquired in part using Federal Transit Administration (FTA) funding. Sound Transit will consult with FTA as required prior to sale or disposition of the TOD Sites.

The North TOD Site is approximately 2.4 acres and has an appraised value of \$6,700,000. The South TOD Site is approximately 2.2 acres and has an appraised value of \$6,400,000.

Both sites are zoned for a variety of residential and commercial uses as-of-right.

TOD Analysis

Sound Transit staff conducted a TOD assessment of both TOD sites, reflecting anticipated property boundaries, likely development layout and program, market analysis, and community engagement efforts. This work concluded housing was a suitable use for both sites, accompanied by ground-floor retail, commercial, and/or community uses. Based on the site conditions and city regulations, the assessment found that mid-rise development (6-8 stories) is appropriate for the sites. Additionally, the work estimated that together, the sites can accommodate a total of approximately 500 units of housing, depending on building layout, unit size, and ground-floor commercial uses.

TOD Goals for the Sites

Starting in 2020, Sound Transit and the City of Kent have been working collaboratively to prepare a development approach based on community input. In addition, Sound Transit staff have been working with affordable housing funders to align resources and characterize affordable housing feasibility. Drawing on these efforts, staff identified the following list of key goals:

- Mixed-use: Proposals should include both residential and other uses, such as ground-floor commercial and/or community-serving uses.
- Mixed-income: Proposals should include units for households with a range of incomes, including a priority for long-term affordable housing available to those earning 80% or less of area median income (AMI). Proposals should seek to provide deeper affordability (60% AMI or less).
- Maximize site density: Proposals should seek to maximize the density of the site, while retaining sufficient open space and/or public amenities to support dense development.
- Maximize affordable housing: Proposals should maximize feasible affordable housing outcomes, with respect to available affordable housing funding resources, including a minimum of at least two affordable housing buildings. Reflecting affordable housing funding partner priorities, proposals that serve populations in particular need (including but not limited to: families, veterans, survivors of domestic violence, people with developmental disabilities, households that are at risk of homelessness, and individuals re-entering the community after incarceration) will be more competitive in the evaluation process.
- Community-oriented and community representation: Proposals should include community-oriented uses, reflecting community needs and preferences (as described, for example, in Sound Transit's community engagement efforts described below). Proposals with community representation in the project, as demonstrated through the meaningful participation of a community-based or nonprofit organization, will be more competitive in the evaluation process.
- Community gathering space: Proposals should include public spaces, such as a public plaza and/or green space, to provide comfortable outdoor areas and focus activities and storefronts.

Recommended Actions

(1) Approves the CEO's declaration that certain property, as part of the TOD Sites, is surplus upon completion of Federal Way Link Extension construction

The TOD Sites are comprised of portions of sixteen tax parcels. The CEO has declared portions of fifteen parcels, as depicted in Exhibit A, can be declared surplus. The CEO may declare one additional parcel surplus at a later date.

(2) Declares the TOD Sites as suitable for development as housing

RCW 81.112.350(b)(i) states that, unless certain exceptions apply, "a minimum of eighty percent of [Sound Transit's] surplus property to be disposed or transferred, including air rights, that is suitable for development as housing, must be offered for either transfer at no cost, sale, or long-term lease first to Qualified Entities that agree to develop affordable housing on the property, consistent with local land use and zoning laws." The statute defines Qualified Entities as local governments, housing authorities, and nonprofit developers.

Staff recommends that these properties are suitable for development as housing.

Threshold evaluation considerations:

- Housing is a permitted use within the properties' zoning district
- The size and shape of the properties meet the zoning code's minimum requirements for constructing housing; and
- The known environmental conditions of the properties are not expected to create a barrier to constructing housing.

Discretionary evaluation considerations:

- The City of Kent is supportive of housing on these sites;
- The community is supportive of housing on these sites;
- A market and feasibility study identified housing as a viable use on these sites; and
- Sound Transit's appraisal identified housing, as part of mixed-use development, as a highest and best use of the sites.

(3) Authorizes staff to offer the TOD Sites first to qualified entities to create mixed-use, mixed-income project outcomes, including affordable housing

Staff recommends offering the TOD Sites through a competitive process to qualified entities to pursue a mixed-used, mixed-income project with an affordable housing component on the sites for the following reasons:

- Development of a mixed-used, mixed income project with affordable housing meets the shared objectives established by Sound Transit's partnership with the City of Kent, reflects neighborhood planning objectives, and responds to community engagement feedback.
- The FWLE Development Agreement between the City of Kent and Sound Transit establishes the goal of a "...compact, mixed use and mixed-income walkable urban center" for the TOD Sites.
- The TOD Sites are large enough to accommodate a mix of incomes and uses without adversely affecting feasible affordable housing production.
- Affordable housing is a recognized need by the City of Kent. Public funding partners are prepared to align affordable housing funding through a joint solicitation, with King County offering \$10 million in

funding. In addition, the Washington State Housing Finance Commission (Commission) will make available affordable housing bond financing to Sound Transit TOD projects where the Board has authorized a discounted land value for affordable housing.

- The TOD Sites are further eligible, after award, for funding from the Amazon Housing Equity Fund dedicated to affordable housing on Sound Transit TOD sites.

(4) Authorizes staff to offer property within the TOD Sites below market value to facilitate affordable housing outcomes

Consistent with RCW 81.112.350, the Sound Transit Board can discount property to facilitate affordable housing outcomes. Staff recommends a discount for the Kent Des Moines TOD Sites for the following reasons:

- Most affordable housing projects serving area median incomes of at or below 60% of area median income typically require public subsidy in the form of low-cost, subordinate debt, low income housing tax credit allocations, discounted land value, and/or grants. Land cost is typically 5-15% of a project budget, and without discounting land value, would likely require additional local subsidy, which is likely to be a barrier to the project.
- The appraised value of the North TOD Site is \$6,700,000 and the South TOD Site is \$6,400,000. The cost of land may be a barrier for realizing significant affordable housing outcomes at these sites.
- A discounted land value is important to unlocking other affordable housing funding resources. The Commission streamlined process for issuing a bond/tax credit allocations is contingent on Sound Transit providing a significant discount of the land value, and Amazon's Housing Equity Fund prefers investments where Sound Transit is offering a discount to fair market value for affordable housing.

Staff is seeking authorization to offer a discount, including a no cost transfer, for the TOD Sites to allow flexibility to consider proposals that maximize the amount of affordable housing across the sites. Staff expect that two affordable housing buildings, or potentially up to half of the total development, is a realistic outcome and that proposers will seek a mix of affordable and market rate development. Only portions of the site developed by qualified entities as affordable housing will be eligible for a discounted land value. The final amount of discount is subject to future Board approval, once the amount of achievable affordable housing has been determined through a competitive offering process.

Next Steps and Future Board Involvement

Should the Board approve these actions, Sound Transit begin the competitive solicitation process for the TOD Sites. The solicitation will first be offered to qualified entities with the understanding that qualified entities may elect to partner with for profit developers to allow for a range of uses.

After receiving responses to the solicitation, staff will evaluate them and negotiate a term sheet with the top ranked proposer for each of the North and South TOD Site. Following negotiations, the key business terms, including the amount of land value discount for affordable housing, will be brought before the Board for consideration.

Fiscal information

A market appraisal, effective at the anticipated completion of FWLE (December 2024), valued the North and South TOD Sites at \$13.1 million for market-rate development. The proposed actions would direct staff to offer the TOD Sites first to qualified entities and would authorize staff to discount land value for the portions of the sites that will be redeveloped as affordable housing that meets the requirements of RCW 81.112.350; portions of the sites developed not as affordable housing will be required to pay fair market value.

The Long-Range Financial Plan includes a forecasted goal to meet the ST3-assumed target of \$93.8 million (2016\$) for surplus property revenues over the lifetime of the plan (2017-2046) that includes assumptions on properties that could be used to reach this target and when the revenue will be received. Since 2016, the agency has achieved approximately \$64 million in property sales and ground leases.

Due to Sound Transit's affordable housing goals and requirements (as included in ST3), the forecast does not assume that all surplus properties will be sold for fair market value. The agency has multiple future opportunities to achieve the revenue target, including those from future ST3-acquired property that will be determined as transit projects progress through the final design and construction phases. Additionally, property values have escalated faster than originally assumed, which results in the potential for higher revenues than planned. As a result, discounting a property does not necessarily result in a negative impact on the affordability of the Financial Plan.

The Spring 2022 Financial Plan forecast of the surplus property target does not assume the identified value (\$13.1 million) for the TOD Sites as revenue. Even if the sites are discounted, the agency believes that the Financial Plan target can still be achieved within the same timeframe. As a result, there would not be a negative impact to the affordability of the Financial Plan.

Disadvantaged and small business participation

Not applicable to this action.

Public involvement

Sound Transit conducted community engagement for the North and South TOD Sites in 2020 and 2021. Early engagement efforts included meeting with stakeholders to identify goals and explore potential partnerships. Sound Transit then held an online survey and an online open house to receive community feedback on the sites. Participants submitted over 1,300 comments, and key takeaways include:

- Offer new housing opportunities, including affordable units for a variety of household sizes
- Interest in space for local, small, and emerging businesses
- Interest in projects that partner with and reflect the diverse local community

The final community engagement report is available to the public here:

<https://www.soundtransit.org/sites/default/files/documents/kent-des-moines-tod-community-engagement-report-20220415.pdf>.

Time constraints

A delay greater than one month would create significant impact to potential affordable housing development. In addition to pre-committed funds from King County and the Washington State Housing Finance Commission, the projects may be eligible for affordable housing funds from the Amazon Housing Equity Fund. The Amazon Housing Equity Fund requires projects to start construction by December 31, 2025. Releasing the solicitation as soon as possible gives proposers more time to determine funding eligibility and conduct necessary due diligence work.

Prior Board/Committee actions

Resolution No. R2017-34: Authorized the chief executive officer to acquire certain real property interests, including acquisition by condemnation to the extent authorized by law, and to reimburse eligible relocation and reestablishment expenses incurred by affected owners and tenants as necessary for the Federal Way Link Extension.

Resolution No. R2017-16: Authorized the chief executive officer to acquire certain real property interests, including acquisition by condemnation to the extent authorized by law, and to reimburse eligible relocation and reestablishment expenses incurred by affected owners and tenants as necessary for the Federal Way Link Extension

Environmental review – KH 7/25/22

Legal review – JV 7/29/22



Resolution No. R2022-23

A RESOLUTION of the Board of the Central Puget Sound Regional Transit Authority (1) Approving the chief executive officer's declaration that fifteen parcels, as part of the Kent Des Moines Transit Oriented Development Sites, are surplus upon completion of Federal Way Link Extension construction; (2) declaring the TOD Sites as suitable for development as housing; (3) authorizing staff to offer the TOD Sites first to qualified entities to create mixed-use, mixed-income project outcomes that prioritize and maximize affordable housing; (4) authorizing staff to offer property within the TOD Sites below market value to facilitate affordable housing outcomes.

WHEREAS, the Central Puget Sound Regional Transit Authority, commonly known as Sound Transit, was formed under chapters 81.104 and 81.112 of the Revised Code of Washington (RCW) for the Pierce, King, and Snohomish Counties region by action of their respective county councils pursuant to RCW 81.112.030; and

WHEREAS, Sound Transit is authorized to plan, construct, and permanently operate a high-capacity system of transportation infrastructure and services to meet regional public transportation needs in the Central Puget Sound region; and

WHEREAS, in general elections held within the Sound Transit district on November 5, 1996, November 4, 2008, and November 8, 2016, voters approved local funding to implement a regional high-capacity transportation system for the Central Puget Sound region; and

WHEREAS, Sound Transit acquired the subject property, currently identified as the Kent Des Moines Transit Oriented Development Sites located in Kent, WA for the Kent Des Moines Station project between 2019 and 2021; and

WHEREAS, RCW 81.112.350 requires Sound Transit to "develop and seek voter approval for a system plan, ... to implement a regional equitable transit-oriented development strategy for diverse, vibrant, mixed-use and mixed-income communities consistent with transit-oriented development plans developed with community input by any regional transportation planning organization within the regional transit authority boundaries"; and

WHEREAS, on June 23, 2016 the Sound Transit Board adopted Resolution No. R2015-16 approving the Sound Transit 3 Regional Transit System Plan (the "ST3 Plan") and on November 8, 2016 the voters approved the ST3 Plan. The ST3 Plan provides (at page 12), "Sound Transit will implement a regional equitable TOD strategy for diverse, vibrant, mixed-use and mixed income communities adjacent to Sound Transit stations that are consistent with transit oriented development plans developed with the community by the regional transportation planning organization within Sound Transit's boundaries. ... Sound Transit will use such plans as the 2013 Growing Transit Communities Strategy to inform the content and implementation of its TOD strategy"; and

WHEREAS, unless certain exceptions apply, RCW 81.112.350 requires that the agency offer for transfer at no cost, sale, or long-term lease at least 80 percent of its surplus properties that are suitable for housing first to qualified entities (local governments, housing authorities, and non-profit developers) that agree to develop affordable housing on the property, and if accepted, at least 80 percent of the housing units created on the property must serve those whose adjusted income is no more than 80 percent of the adjusted median income for the county in which the property is located; and

WHEREAS, on April 26, 2018, the Sound Transit Board adopted Resolution No. R2018-10 adopting an Equitable TOD Policy to reflect the ST3 Plan and RCW 81.112.350 direction to implement

a regional equitable TOD strategy during planning, design, construction and operation of the high-capacity transit system; and

NOW, THEREFORE, BE IT RESOLVED by the Board of the Central Puget Sound Regional Transit Authority that:

Section 1. The chief executive officer's declaration that fifteen parcels, as part of the Kent Des Moines Transit Oriented Development Sites, are surplus upon completion of Federal Way Link Extension construction is approved.

Section 2. The TOD sites are suitable for development as housing.

Section 3. Staff is hereby authorized to offer the TOD Sites first to qualified entities to create mixed-use, mixed-income project outcomes that prioritize and maximize affordable housing.

Section 4. Staff is hereby authorized to offer the TOD Sites below market value to facilitate affordable housing.

ADOPTED by the Board of the Central Puget Sound Regional Transit Authority at a regular meeting thereof held on August 25, 2022.



Dave Somers
Board Vice Chair

Attest:



Kathryn Flores
Board Administrator

Kent Des Moines TOD

Exhibit A – Parcel Map

